

# The Critical Edge

*News about the CSPA from the DES Shoreland Program*



## New Rules Mean Clean Water for You and Future Generations *Know What DOES and Does NOT Need a Permit!*

As of July 1, 2008, a DES Shoreland Permit is required for many construction, excavation and filling activities within the Protected Shoreland. However, many types of low impact activities do not require a permit and there is flexibility in the permitting process to ensure that emergencies can be handled by shorefront property owners in a timely manner.

### Activities That Do NOT Need a Permit

The CSPA gives DES the authority to make rules defining criteria for projects that do not require a permit. DES has done this and there are three pages of rules defining projects that do **not** require a permit in the shoreland administrative rules Env-Wq 1406.04. Several of these rules are discussed below. Among other things, a shoreland permit is not needed for the following activities:



- **Trimming, pruning, and thinning** of branches to the extent necessary to protect structures, maintain clearances, and provide views. Examples: removing the limbs from the bottom 50 percent of a tree to maintain a view; removing the tree limbs that are in

contact with or overhanging structures.

- **Cutting trees and saplings** in accordance with the grid and points system. (see the June issue of *The Critical Edge* at [www.des.nh.gov/cspa](http://www.des.nh.gov/cspa) for a complete discussion of the grid and points system.)
- **Removing dead, diseased, or unsafe trees.** These activities do not need a permit if excavation is not involved, but the property owner should photograph the dead or diseased tree being sure to

include views in the photo that clearly show the tree is dying or diseased. For unsafe trees, DES strongly recommends that a certified arborist, landscape architect, or forester make the determination that the tree has a structural defect and represents an imminent hazard to personal property or safety. All dead, diseased or unsafe trees should be removed in a manner that does not cause erosion or damage to adjacent vegetation. Within the waterfront buffer, the roots must be left intact in the ground.

- **Adding a second story to an existing legal primary or accessory structure** as long as there is *no change to the footprint*, no excavation or filling, vegetation removal or change in septic loading. (Please note that new construction or expansion of living space for existing structures will need a permit from the Subsurface Bureau.) In addition, after July 1, 2008, primary, non-conforming structures can be expanded upward without a shoreland waiver when there is no change in footprint. Property owners are advised to verify that any proposed construction meets Subsurface Bureau and local regulations.
- **Digging test pits** for wastewater disposal assessments if there is no disruption of groundcover

**Swing sets, dog houses, lawn furniture and lawn ornaments do NOT need a shoreland permit!**



within 50 feet of the reference line and no test pits dug within 75 feet of the reference line (*unless for a failed system*).

- **Replacement of a failed septic systems** as long as there is no change in loading. (*Will need a permit*)

from the Subsurface Bureau.)

- **Using hand tools** (shovels, rakes, hoes, rototillers) to work in a garden.
- **Planting vegetation** that is not listed on the Invasive Species list using hand tools.
- **Resurfacing an existing legally constructed driveway or roadway** when there is no increase in footprint, excavation, filling in excess of the material needed for the resurfacing, or vegetation removal outside of the footprint.
- **Placement of a single accessory structure** at least 50 feet from the reference line as long as the footprint is less than 150 square feet, no excavation or filling occurs, and the structure does not have heat, electricity, or plumbing and is not used for living space.



It is possible that you may need to conduct a low impact activity that is not listed in Env-Wq 1406.04 . If your proposed activity is not listed and you are unsure whether or not a permit is required, please call the shoreland program at (603) 271-2147 or [shoreland@des.nh.gov](mailto:shoreland@des.nh.gov).

## Emergencies

There are emergency procedures in place to make sure that natural disasters, such as the recent tornado and flooding events, and other situations that pose immediate threats to public safety or health, property, or water quality, are addressed in the fastest possible manner. These procedures are outlined in Env-Wq 1407 in the shoreland administrative rules.

A property owner may request by phone, fax or email, an emergency authorization to address an immediate threat without obtaining a shoreland permit. The request should be made within one week of discovering the need for the emergency authorization and include the following: a daytime telephone number of the individual requesting the permit and, if available, an e-mail or fax number; a description of the need for the emergency authorization; and a description and sched-

ule of the of the work to be performed. The work covered by the authorization is limited to temporary stabilization of the property or other mitigation of the immediate threat, such as the removal of hazardous or potentially hazardous materials.

In certain circumstances work may be done during an emergency without prior authorization if the work was initiated during a natural disaster, and is limited to that work necessary to mitigate an immediate threat or to stabilize a property. The activities should be reported to the DES Shoreland Program as soon as practical, along with a daytime telephone number, a description of the work, and when the work was completed.



*Trees damaged from a microburst. Trees that have fallen, broken off or been uprooted from storm events, or dead, diseased or dying trees can be removed without a permit. DES recommends that the property owner photograph the tree to document the defect(s). When a damaged tree is within the waterfront buffer and the root system is still intact in the ground, the stem of the tree should be cut down to ground level and the root system left in the ground. Tree root structures are an important part of the natural woodland buffer's ability to infiltrate stormwater. When removing damaged trees, care should be used to avoid damaging surrounding vegetation.*

## Activities that **DO** Need a Shoreland Permit

Significant construction activities within the protected shoreland that increase impervious surfaces, require excavation or removal of vegetation; excavation for primary or accessory structures; and filling or regrading will need a shoreland permit. Examples include but are not limited to:

- **Excavation** for building foundations, retaining walls, driveways, patios, septic systems (unless it is a failed system), removal of boulders or tree root systems (note that rock and root systems must remain intact within the waterfront buffer).

- **Construction** of primary and accessory structures, retaining walls and decks.
- **Filling** for septic systems, regrading or recontouring.

There is a minimum shoreland application fee of \$100 and 10¢ a square foot of impact within the protected shoreland. Fees are capped according to the following table:

<u>SQUARE FEET</u>	<u>CAP</u>
0 - 9,999	\$750
10,000 - 24,999	\$1,875
25,000+	\$3,750

When a project is located within the bank of the water body or the tidal buffer area, the project is in both wetland (RSA 482-A) and shoreland (RSA 483-B) jurisdiction—the two jurisdictions overlap in the area of the bank (see Figure 1). Beaches and retaining walls are examples of projects that are in wetland and shoreland jurisdiction. When projects are completely in the area of overlapping jurisdiction, the project only needs one permit—a wetlands permit—so there will be no need to apply twice. The wetland's staff will review the project for compliance with the CSPA. Examples of projects that are in areas of overlapping jurisdiction include, but are not limited to:

- Beaches in the bank or tidal buffer area.
- Retaining walls in the bank or tidal buffer area.



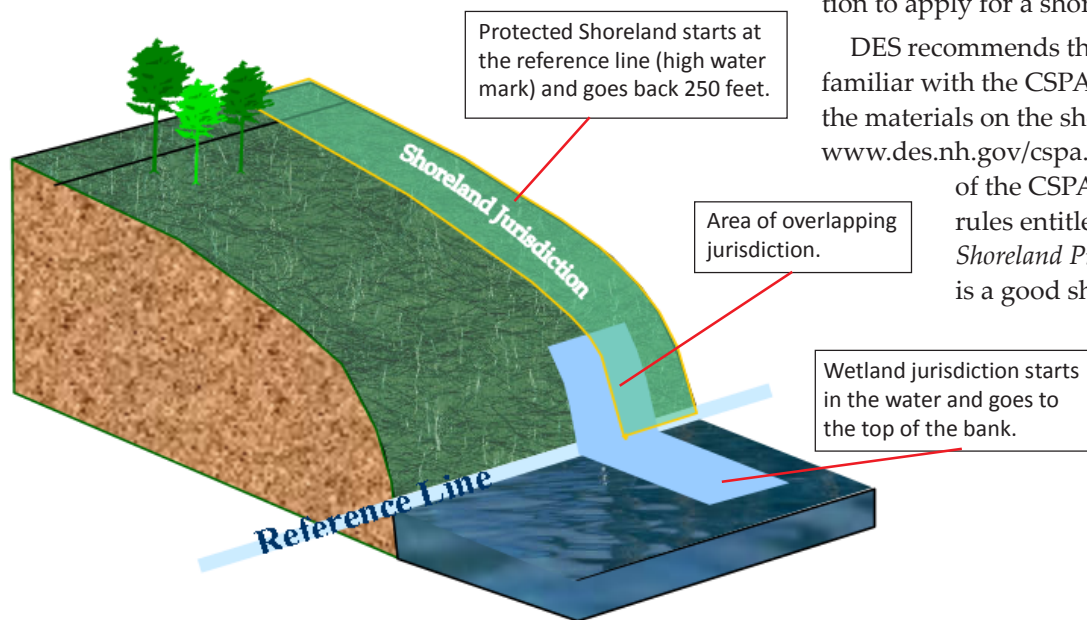
*Blanketing trees prevents accidental injury to the tree from construction activities. Boards are placed around the trunk of the tree and bound with wire. After construction, the wire is cut, the boards fall away and can be used elsewhere.*

- Boat ramps, boathouses.

Docks and breakwaters are solely in wetlands jurisdiction and only need a wetland permit (see diagram).

Permit application forms, worksheets, and checklists are available on the DES Shoreland Program web page at [www.des.nh.gov/cspa](http://www.des.nh.gov/cspa). Shoreland pre-application meetings are available and can be scheduled by calling (603) 271-0862. The pre-application meeting is a way for homeowners to meet with DES Shoreland permitting staff, before submitting the shoreland application, to sort through the requirements and permitting process. These meetings are most effective when the applicant has compiled all or most of the required information to apply for a shoreland permit.

DES recommends that applicants become familiar with the CSPA by reading through the materials on the shoreland web page at [www.des.nh.gov/cspa](http://www.des.nh.gov/cspa). A bulleted summary of the CSPA and administrative rules entitled *Summary of the New Shoreland Protection Act Standards* is a good short document that will provide a quick overview of the CSPA.



**Figure 1. Area of overlapping jurisdictions within the protected shoreland for freshwater bodies.**

## Outreach Efforts Continue Across the State

Since October, 2007, the shoreland program has presented over 120 outreach and educational events throughout the state. In August, the second all day CSPA workshop was held at Church Landing in Meredith.



*Gary Springs, Certified Erosion Control, explaining the ABCs of erosion control products.*

Workshop sessions were presented by both DES staff and various professionals who actively work in the protected shoreland or sell products for projects in the protected shoreland. Many thanks to the following individuals from the private sector who contributed their knowledge, experience, and time for these workshops.

- **Steve Kahl, PSU Center for the Environment**, *The Challenge of Cumulative Impact*
- **Randall Shuey, New England Environmental Inc.**, *Methods for Stabilizing and Protecting Shorelines from Rock to Vegetation*
- **Rusty McLearn, Hampshire Hospitality Holdings, and Joe Skiffington, Skiffington Homes**, *Good Waterfront Development*
- **Dr. Neil Hendrickson, Bartlett Tree Research Labs**, *Tree Preservation in Environmentally Sensitive Situations*, **Kirk Titus**, *Hands-On Buffer Mapping*
- **George Pellettieri, Pellettieri Associates**, *Shoreline Restoration and Construction: Tips and Techniques for Site Improvements in the Waterfront Buffer*
- **Kevin Earley, Nicolock Paving Stones & Retaining Walls**, *Permeable Pavement: A BMP for Stormwater Management*
- **Joe Koziell, North American Green**, *Methods for Stabilizing and Protecting Shorelines from Rock to Vegetation*
- **Cindy Balcius and Tracy L. Tarr, Stoney Ridge Environmental**, *Landscaping for Wildlife Habitat*
- **Jeff Schloss, UNH Cooperative Extension**, *Landscaping at the Water's Edge: Using Buffers and Simple Practices to Rein in Stormwater Runoff*
- **Steven W. Lehmann, P.E., Vanasse Hangen Brustlin Inc.**, *Pervious Possibilities*

The audience included shorefront property owners, contractors, developers, landscapers, municipal officials and real estate agents. Feedback was overwhelmingly positive. There is a lengthy list of people who were not able to attend in August and who are interested in up-coming workshops. The next one is October 8, 2008 at the Fireside Inn in West Lebanon, which will be in partnership with the New Hampshire Association of Natural Resource Scientists. Please contact Chris Joly, NHANRS, at [nhanrsadmassist@aol.com](mailto:nhanrsadmassist@aol.com), (603) 435-6650, or by fax (603) 435-6651, for more information.



*Jay Aube, DES shoreland outreach specialist, explaining the easy application of the grid and points system in the waterfront buffer.*

**The Shoreland Program outreach staff is available for PowerPoint presentations at your location. Since our resources are limited and we try very hard to maximize resources, it is always helpful when organizations can collaborate or partner with other groups to sponsor a presentation. This usually brings diverse interests and many more people to the event. To schedule a presentation, please contact Arlene Allen, Shoreland Protection outreach coordinator at [arlene.allen@des.nh.gov](mailto:arlene.allen@des.nh.gov) or (603) 271-0862.**

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